

Remarks

Reconsideration and allowance of the subject patent application are respectfully requested.

Claims 1, 5-11, 13-15, 19-26 and 28-45 were rejected under 35 U.S.C. Section 102(e) as allegedly being “anticipated” by Reed et al. (U.S. Patent No. 5,862,325).

Claim 1 recites a system for communicating exerciser-related messages that comprises, inter alia, a database storing records of exercise activities for a plurality of exercisers and a processing system generating messages relating to one or more exercisers based on the records of exercise activities. The Reed et al. ‘325 patent clearly does not contain any disclosure whatsoever regarding exerciser-related messages, much less a database and a processing system as claimed.

In particular, the Reed et al. ‘325 patent fails to disclose, for example, a processing system that operates in the manner set forth in claim 1. A simple inspection of the text of the Reed et al. ‘325 patent at col. 5, lines 6-22 (which is referenced in the office action in connection with the claimed processing system) reveals no mention of a processor system that generates messages based on records of exercise activities. Indeed, the office action simply states that the referenced text “clearly indicates that a processing system is the new message processing.” 4/6/2007 Office Action, page 4. Even assuming for the sake of argument only that this characterization of the referenced portion of the Reed et al. ‘325 patent is correct, this does not constitute a disclosure of the claimed processing system which is specified as generating messages based on records of exercise activities. The office action provides no explanation as to where this feature can be found in the Reed et al. ‘325 patent and thus the office action fails to set forth a prima facie basis for the anticipation of claim 1 by the Reed et al. ‘325 patent.

Claims 5-11 and 13 depend from claim 1 and the Reed et al. ‘325 patent likewise does not anticipate these claims.

The Reed et al. ‘325 patent is similarly deficient with respect claims 14, 15 and 30 because these claims likewise call for generating messages based on records of exercise activities.

Claims 19-26, 8 and 29 depend from claim 15 and the Reed et al.'325 patent likewise does not anticipate these claims.

Moreover, while Applicant strongly traverses the contention that certain claim recitations are "intended uses", this contention is inapplicable to method claims like claim 15 and the claims that depend therefrom. Anticipation of a method claim requires disclosure of all of the steps recited in the claim and missing steps cannot be filled in by resort to assertions of "intended use."

The office action improperly treats claims 31, 37, 38 and 45 collectively with claims 1, 14, 15 and 30. Claims 31, 37, 38 and 45 are directed to communicating workout messages and recite, among other things, generating workout messages for one or more exercisers based on data regarding the exercisers stored in a database. The office action provides no explanation of where the claimed workout message feature can be found in the Reed et al. '325 patent and thus fails to provide a prima facie case of anticipation of these claims and the claims that depend therefrom.

Claims 2-4, 12, 16-18 and 27 were rejected under 35 U.S.C. Section 103(a) as allegedly being made "obvious" by the Reed et al. '325 patent in view of Reed et al. (U.S. Patent No. 6,044,205). Like the Reed et al. '325 patent, the Reed et al. '205 patent contains no disclosure whatsoever regarding exerciser-related messages or workout messages.¹ Consequently, the Reed et al. '205 patent does not remedy the deficiencies of the Reed et al. '325 patent with respect to the independent claims, nor does the Reed et al. '205 patent provide any disclosure relevant to the features of the dependent claims 2-4, 12, 16-18 and 27.

By way of example and without limitation, the Reed et al. '205 patent contains no disclosure relevant to generating messages based on when exercisers performed exercise activities (claims 2 and 16); or to generating messages based on whether exercisers have performed exercise activities for a certain period of time (claims 3 and 17); or to generating messages based on physiological data for exercisers measured during exercise activities (claims 4 and 18). Here again, simple inspection of the referenced portions of the Reed et al. '205 patent the office action reveals no mention of exercise activities or physiological data and Applicant

¹ Indeed, Reed et al. '325 patent appears to be a continuation-in-part of the Reed et al. '205 patent.

Michael J. SHEA
Serial No. 10/728,880
Response to Office Action dated April 6, 2007

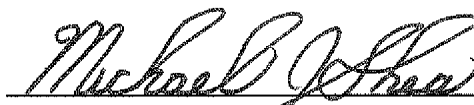
respectfully submits that the office action fails to provide a prima case for the obviousness of at least claims 2-4 and 16-18.

New claims 46 and 47 have been added. These claims depend from claims 1 and 15, respectively, and find support in the original disclosure at, for example, paragraphs [0049], [0056] and/or [0063]. These claims are believed to be allowable because of their respective dependencies and because the applied references do not disclose or suggest receiving communications from one or more exercise machines and updating the records of exercise activities in the database based on the received communications.

The pending claims are believed to be allowable and favorable office action is respectfully requested.

Respectfully submitted,

By:

A handwritten signature in cursive script, appearing to read "Michael J. Shea", is written over a horizontal line.

Michael J. Shea
Reg. No. 34,725

MJS:mjs
1726 Creek Crossing Road
Vienna, VA 22182